

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

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JANE DOE, individually and as next friend to her	:
minor daughters, ANNE DOE, BETH DOE and	:
CAROL DOE,	:
	:
Plaintiffs,	:
	:
v.	:
	:
WOOD COUNTY BOARD OF EDUCATION,	:
J. PATRICK LAW, Superintendent, in his Official	:
Capacity, STEPHEN TAYLOR, Principal, Van	:
Devender Middle School, in his Official and Individual	:
Capacity, and PENNY TONELLI COLEMAN, Former	:
Assistant Principal of Van Devender Middle School,	:
in her Individual Capacity,	:
	:
Defendants.	:
	:
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MOTION FOR A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

Plaintiff Jane Doe, individually, and as Parent and Next Friend to child Plaintiffs Anne Doe, Beth Doe and Carol Doe, hereby moves, pursuant to Rule 65 of the Federal Rules of Civil Procedure and for the reasons set forth in the Complaint, in Plaintiffs' Memorandum of Law in Support of Motion for Temporary Restraining Order and Preliminary Injunction, and in the Declarations and appended exhibits submitted in support of this Motion, for the entry of a Temporary Restraining Order and Preliminary Injunction pending decision on the merits in this case, restraining and enjoining Defendants and any of their agents, representatives, or anyone

acting on Defendants' behalf, from proceeding in the unlawful separation of Van Devender Middle School by sex. In support of this application, the Plaintiffs state:

1. Plaintiffs bring this action pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681; 34 C.F.R. §§ 106.31, 106.34; 7 U.S.C. §§ 15a.31, 15a.34; and 42 U.S.C. § 1983 and have filed a complaint against Defendants alleging that Defendants have engaged and are continuing to engage in practices violating Plaintiffs' rights under Title IX and under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution;
2. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343 because this action raises federal questions and seeks to redress the deprivation of rights under Title IX, 20 U.S.C. §§ 1681–1688 and the Fourteenth Amendment to the U.S. Constitution, pursuant to 42 U.S.C. § 1983, and there is good cause to believe that it will have personal jurisdiction over all of the parties;
3. Defendants' single-sex education program has caused irreparable harm to Plaintiffs by depriving them of equal educational opportunities and will continue to cause irreparable harm to Plaintiffs absent the entry of the Proposed Order;
4. This relief is warranted, as Plaintiffs are likely to prevail on the merits of their Complaint;
5. Plaintiffs, as rising seventh grade students attending Van Devender Middle School and their mother, face an imminent risk of harm from Defendants' unlawful same-sex educational program, which will continue when the school year commences on August 23, 2012;

6. Plaintiffs' right to equal educational opportunities far outweighs any burden on Defendants that might result from enjoining the sex separation;
7. The injunctive relief sought is in the public interest and would affirmatively forward the public interest by preventing the Defendants from subjecting students of Van Devender Middle School to unlawful and unconstitutional discrimination on the basis of sex;
8. Plaintiff has, by counsel, made good faith efforts to resolve this issue with Defendants through correspondence dated May 21, 2012, requesting that Defendants immediately cease all single-sex instruction on the grounds that such instruction appears to violate federal law;
9. In response to Plaintiffs' letters and communications, Defendants advised that they would not cease single-sex instruction in sixth and seventh-grade classes and, in fact, intend to expand the program to include eighth-grade classes for the 2012-2013 school year;
10. Defendants' counsel, Dean Furner, placed a call to the Executive Director of the ACLU of West Virginia on Friday, August 3, 2012 inquiring about the possibility of a "compromise." Plaintiffs responded by an email on August 6 from Sarah Rogers, Legal Director of the ACLU of West Virginia, directing him to discuss the specifics of any such compromise proposal with attorney Amy Katz of the ACLU Women's Rights Project. However, Furner has to date failed to call Ms. Katz;
11. Plaintiffs have informed Defendants that this action and the instant motion are being filed and have given notice of the substance of the claims.

12. Sponsoring attorney, Roger D. Forman, requests that a hearing on the temporary restraining order be held on August 16, 2012 in the afternoon as he has a sentencing hearing on the morning thereof and prior commitments out of town on both Friday, August 17, 2012, and the morning of Monday, August 20, 2012.

WHEREFORE, for the reasons stated above, listed in the Complaint and contained in the Plaintiffs' attached Memorandum of Law, Plaintiffs ask this Court to enter an immediate order restraining Defendants from segregating Van Devender Middle School by sex or instituting any single-sex class or program at Van Devender Middle School until a decision on the merits in the instant case.

Dated: August 15, 2012

Respectfully Submitted,

Sarah Rogers (*pro hac vice* pending)
Staff Attorney, American Civil Liberties Union
of West Virginia Foundation
P.O. Box 3952
Charleston, WV 25339-3952
(304) 345-9346
srogers@acluwv.org

/s/ Roger D. Forman

Roger D. Forman
Law Offices of Roger D. Forman LC
100 Capitol Street
Suite 400
Charleston, WV 25301
304-346-6300
rdf@citynet.net

Lenora M. Lapidus
(*pro hac vice* pending)
Galen Sherwin (*pro hac vice* pending)
Amy Lynn Katz (*pro hac vice* pending)
Christina Brandt-Young
(*pro hac vice* pending)
American Civil Liberties Union Foundation
Women's Rights Project
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2615
LLapidus@aclu.org
gsherwin@aclu.org
wrp_ak@aclu.org
wrp_cby@aclu.org

Roxann E. Henry (*pro hac vice* pending)
Marissa P. Harris (*pro hac vice* pending)
Joshua A. Hartman (*pro hac vice* pending)
Morrison & Foerster LLP
2000 Pennsylvania Avenue, NW
Suite 6000
Washington, D.C. 20006
(202) 887-1500
RHenry@mofo.com
MHarris@mofo.com
JHartman@mofo.com

Attorneys for Plaintiffs

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Devender Middle School, in his Official and Individual	:
Capacity, and PENNY TONELLI COLEMAN, Former	:
Assistant Principal of Van Devender Middle School,	:
in her Individual Capacity.	:
	:
Defendants.	:
	:
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ORDER

In consideration of Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction, this Court finds the following:

1. Defendants' continuation of the same-sex education program at Van Devender Middle School will cause immediate and irreparable injury to Plaintiffs;
2. The entry of this Order is proper considering the Plaintiffs' likelihood of success on the merits of their stated causes of action;
3. Minimal harm will result to the Defendants if this Order issues, whereas substantial harm will result to the Plaintiffs if this Order does not issue;
4. The entry of this Order serves the public interest by preventing further acts of unlawful discrimination on the basis of sex against students of Van Devender Middle School.

Accordingly, IT IS HEREBY ORDERED that Defendants and their assigns are enjoined and restrained from implementing single-sex instruction at Van Devender Middle School.

This the _____ day of August, 2012 in Parkersburg, West Virginia.

United States District Judge